

## REMARKS

Claims 1-19 remain in the application. Claims 1, 2, 7, 14, 16, and 18 have been amended.

In the specification, the original Abstract has been replaced by an Abstract not exceeding 150 words and otherwise complying with MPEP 608.01(b).

The Office Action objected to claim 2 for reasons of formality. Accordingly, claim 2 has been amended to be in compliance with 35 USC 112, paragraph 2.

The Office Action rejected claims 1-19 under 35 USC 102(b) as anticipated by a publication by Chambers et. Al., titled "Dependence Analysis for Java," dated 1999. Claims 1, 7, 14, 16, and 18 have been amended to include the function or structure for generating compensation codes for each exception checking instruction. Chambers et al. discuss how to relax the ordering among exceptions but they do not teach or suggest generating compensation codes or an exception handler with compensation codes as claimed. In this respect Applicant respectfully traverses the rejections of claims 4 and 6 which include "compensation code" limitations. The rejections of claims 4 and 6 both state that certain analysis or instructions are "**capable** of doing the functionality" of each claim 4 and 6. Applicant respectfully submits that the *mere capability* of performing a claimed function or method step does not anticipate a claim that expressly states such claim limitations. If the Examiner believes that the claimed function or step is inherent he or she must prove such inherency and not merely conclude that the claimed feature is inherent.

Applicant respectfully traverses the rejection of claims 12 and 13. Chambers *et al.* do not anticipate claim 12 and 13 because Chambers *et al.* do not teach or suggest the limitation that the optimization unit "converts an area in said program, within a predetermined range, so that the occurrence of an exception is detected when an exception is generated by at least one of multiple exception generative instructions." The Office action rejected claim 12 on the same basis as claim 1. However, claim 1 does not include the limitation quoted above. Therefore, the rejection of claim 12 does not present a prima facie case of infringement.

For the foregoing reasons, Applicant respectfully requests entry of the amendment and allowance of the pending claims.

Respectfully submitted,

  
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I hereby certify that this Amendment and Response to Office Action, and any documents referred to as attached therein, are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, Mail Stop Amendment, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, on this date, November 29, 2004.

  
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Date: November. 29, 2004

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